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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/673,689

09/29/2003

Jan Andersson

06275-131002

1299

26161 7590 06/28/2007  
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EXAMINER

PATEL, NIHIR B

ART UNIT

PAPER NUMBER

3772

MAIL DATE

DELIVERY MODE

06/28/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/673,689

Applicant(s)

ANDERSSON ET AL.

Examiner

Nihir Patel

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3772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02.09.2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 34-41 and 55-64 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 55-64 is/are allowed.
- 6) ☒ Claim(s) 34-39 and 41 is/are rejected.
- 7) ☒ Claim(s) 40 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 2.28.05; 9.29.03
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments filed February 9<sup>th</sup>, 2007 with respect to claims 34-41 and 55-64 have been fully considered and are persuasive. The previous rejection(s) of the previous office action dated May 15<sup>th</sup>, 2006 has been withdrawn.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims **34-39 and 41** is rejected under 35 U.S.C. 102(b) as being anticipated by Coccozza (US 5,033,463).

4. **As to claim 34**, Coccozza teaches an apparatus multi-dose inhaler for medicaments in powder that comprises a dosing unit **2** for providing a dose of powder (**see figure 10; column 8 lines 5-20**); and a flow path downstream of the dosing unit which is defined by a plurality of surfaces through which a stream of air entering the dose of powder is in use drawn on inhalation by a user (**see column 10 lines 15-35**); characterized in that at least one of the surfaces of the flow path is movable relative to at least one other surfaces of the flow path and in that the inhaler further comprises a powder dislodging member which is of fixed position relative to one of the at least one or at least one other of the surfaces of the flow path and is configured on relative movement of the at least one and one other of the surfaces of the flow path, to contact the other of the at least one or at least one other of the surfaces of the flow path such as to dislodge powder

accumulated thereon, wherein the powder dislodging member comprises one of a scraper or a brush (see figure 10; column 10 lines 1-15; the helical element 188 is defined as the scraper or brush and it contacts the other of the at least one or at least one other of the surfaces of the flow path see figure 10).

5. As to claim 35, , Cocozza teaches an apparatus multi-dose inhaler for medicaments in powder that comprises a dosing unit 2 for providing a dose of powder (see figure 10; column 8 lines 5-20); and a flow path downstream of the dosing unit which is defined by a plurality of surfaces through which a stream of air entering the dose of powder is in use drawn on inhalation by a user (see column 10 lines 15-35); characterized in that the inhaler further comprises a scraper which is movable relative to at least one of the surfaces of the flow path and is configured, on movement thereof relative to the at least one of the surfaces of the flow path, to contact the at least one of the surfaces of the flow path such as to dislodge powder accumulated thereon (see figure 10; column 10 lines 1-15; the helical element 188 is defined as the scraper or brush and it contacts the other of the at least one or at least one other of the surfaces of the flow path see figure 10).

6. As to claim 36, Cocozza teaches an apparatus wherein the at least one of the surfaces of the flow path is movable relative to at least one other surfaces of the flow path and the scraper is of fixed position relative to the at least one other of the surfaces of the flow path (see figure 10; column 10 lines 1-15; the helical element 188 is defined as the scraper or brush and it contacts the other of the at least one or at least one other of the surfaces of the flow path see figure 10).

7. **As to claim 37**, Cocozza teaches an apparatus wherein the flow path includes a chamber which includes an inlet 178 and an outlet 172 (see column 10 lines 20-30).
8. **As to claim 38**, Cocozza teaches an apparatus wherein the at least one of the surfaces of the flow path defines at least part of the chamber (see column 10 lines 20-40).
9. **As to claim 39**, Cocozza teaches an apparatus wherein the at least one and the at least one other of the surfaces of the flow path define at least in part opposed surfaces of the chamber and include the inlet and the outlet thereto (see column 10 lines 20-30).
10. **As to claim 41**, Cocozza teaches an apparatus that further comprises a mouthpiece which includes one of the at least one or at least one other of the surfaces of the flow path (see column 10 lines 5-30).

*Allowable Subject Matter*

11. Claims 55-64 are allowed. The prior art does not disclose a cap for covering at least the mouthpiece, which cap includes a screw thread for engaging the screw thread of the housing and a mouthpiece and a cap that are configured such that at least part of the mouthpiece is rotated relative to the housing on one of screwing or unscrewing the cap; characterized in that the at least part of the mouthpiece remains substantially in fixed position relative to the housing on the other of screwing or unscrewing the cap; characterized in that the at least part of the mouthpiece remains substantially in fixed position relative to the housing on the other of screwing or unscrewing the cap.
12. Claim 40 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The prior art does not teach a storage chamber for storing a plurality of

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doses of powder, which storage chamber includes a filling inlet in one of the opposed surfaces of the chamber, and a plug for sealing the filling inlet of the storage chamber, which plug includes the scraper.

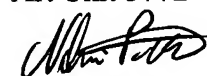
### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nihir Patel whose telephone number is (571) 272-4803. The examiner can normally be reached on 7:30 to 4:30 every other Fridays off.

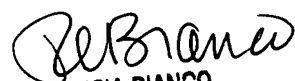
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Bianco can be reached on (571) 272-4940. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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6/23/07